

Puthenparampil Vijayakumaran

05/26/2021

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

DARRYL PELICHET, et al,

Plaintiffs,

vs.

Case No. 2:18-cv-11385

Hon. Anthony P. Patti

ROBERT GORDON, et al,

Defendants.

The Deposition of PUTHENPARAMPIL VIJAYAKUMARAN, M.D.,

Taken via Hanson remote,

Commencing at 10:28 a.m.,

Wednesday, May 26, 2021,

Before Dora L. Quinn, CSR-6110.

Court reporter, attorney(s) and witness appearing remotely.

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1 Wednesday, May 26, 2021

2 10:28 a.m.

3

4 COURT REPORTER: My name is Dora Quinn, a
5 Michigan notary public and certified shorthand
6 reporter, and this deposition is being held via
7 videoconferencing equipment. The witness and reporter
8 are not in the same room. The witness will be sworn
9 in remotely pursuant to agreement of all parties. The
10 parties stipulate that the testimony is being given as
11 if the witness was sworn in person.

12 PUTHENPARAMPIL VIJAYAKUMARAN, M.D.,
13 was thereupon called as a witness herein, and after
14 having first been duly sworn to testify to the truth,
15 the whole truth and nothing but the truth, was
16 examined and testified as follows:

17 EXAMINATION

18 BY MR. CROSS:

19 Q. Good morning, Dr. Vijayakumaran.

20 **A. Good morning.**

21 Q. Have you ever had your deposition taken before?

22 **A. Yes.**

23 Q. About how many times?

24 **A. Probably two times as well as I can remember, yeah.**

25 Q. Well, in case that was a long time ago, I'm just going

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1 to go over some ground rules before we start.

2 First of all, this isn't an endurance
3 contest. If you need a break to go to the bathroom or
4 for any reason, you just let me know, but I have one
5 rule. I ask that if there's a question that I've
6 posed, you answer the last question before the break;
7 okay?

8 **A. Okay.**

9 Q. If you don't understand any of my questions, I don't
10 want you to guess. I want you to ask me to clarify;
11 all right?

12 **A. All right.**

13 Q. And, finally, in this deposition the names of -- or we
14 may end up talking about patients who are not a party
15 to the case, and for their privacy I'm going to refer
16 to them by just their initials. And I ask that you do
17 the same if that comes up at all; okay?

18 **A. All right.**

19 Q. All right. So, Dr. Kumaran, what do you do for a
20 living?

21 **A. I'm a psychiatrist and I practice in Livonia and in**
22 **Westland. I work for a corporation known as Hegira**
23 **Health, Incorporated.**

24 Q. Okay. Do you work anywhere else besides Hegira
25 Health, Incorporated?

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- 1 **A. No.**
- 2 Q. Okay. How many years have you been working for
- 3 Hegira?
- 4 **A. Since 1982.**
- 5 Q. What is your job title?
- 6 **A. I'm the medical director for the corporation and --**
- 7 Q. Okay.
- 8 **A. All right.**
- 9 Q. I'm sorry. Continue.
- 10 **A. No. I do have some administrative duty, but mostly I**
- 11 **see patients.**
- 12 Q. Can you tell me all of your job duties?
- 13 **A. Seeing patients, evaluating patients and prescribe the**
- 14 **needed treatment and work with a treatment team.**
- 15 Q. Okay. What is the difference between a psychiatrist
- 16 and a psychologist?
- 17 **A. Well, a psychiatrist is a medically trained doctor,**
- 18 **professional, more focus on the biological aspects of**
- 19 **treatment, mainly medication management. And a**
- 20 **psychologist is not medically trained, but they have**
- 21 **more training in the psychology aspects of a human**
- 22 **being, and they devise their own forms of treatment.**
- 23 Q. So when you provide treatment to a patient, you're
- 24 providing medical treatment; correct?
- 25 **A. Mainly medical treatment.**

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1 Q. Do you know whether patients generally have a right to
2 refuse medical treatment?

3 **A. Correct.**

4 Q. Are there circumstances though where you would provide
5 treatment to a patient against the patient's will?

6 **A. Only in rare circumstances.**

7 Q. And what are those circumstances?

8 **A. When a person's life is in danger or refusing**
9 **treatment can cause imminent danger to one's self and**
10 **others and they're not able to take care of themselves**
11 **to the detriment of their life.**

12 Q. Do you have to do anything before you can subject a
13 person to involuntary psychiatric treatment?

14 **A. It depends on the context. If I am seeing the patient**
15 **on an emergency basis and the patient is acutely**
16 **suicidal or acutely homicidal, I am allowed to use the**
17 **necessary treatment.**

18 Q. What was that? I'm sorry. I didn't hear the last
19 part.

20 **A. I'm allowed to use the treatment -- the treatment**
21 **modality if the patient is in imminent danger of**
22 **hurting himself or others.**

23 Q. Okay. And you're allowed to make that determination
24 unilaterally or, in other words, just by yourself?

25 **A. Mostly by myself, but also I do work with a team and I**

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1 do consult with the team, and sometimes, when
2 available, I consult with the family.

3 Q. So what about outside of an acute situation?

4 A. Well, it depends on the situation. If the patient is
5 not in imminent danger of hurting himself or others or
6 the patient can take care of themselves pretty well,
7 that patient has the right to refuse treatment.

8 Q. Do you ever have to seek permission from a court to
9 provide involuntary treatment to a patient?

10 A. Sometimes. In my work, I work in two areas; one is
11 outpatient treatment and the other is crisis
12 intervention. I don't usually go to court seeking
13 treatment. That is not usually part of my sphere of
14 work.

15 Having said that, except, you know, in
16 emergency situations we may approach people, and if
17 there is an ongoing treatment program formally ordered
18 by the court, then I continue treatment, of course
19 depending on the right of the patient.

20 Q. So if there's an ongoing treatment program ordered by
21 the court, does that process ever end?

22 A. I cannot answer that.

23 Q. Well, can it ever end?

24 A. It can end, depending on the condition of the patient.

25 Q. So how does it end? Can you just work me through the

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1 administrative mechanism by which it ends?

2 A. Well, if there's a court order and the patient is
3 compliant with the court order and if the patient
4 remains stable for a reasonable time, then I can
5 present to the court that the patient is doing well,
6 compliant with all the requirements ordered by the
7 court, and the patient is not in imminent danger of
8 hurting himself or others. And the understanding that
9 patient will continue to be in a stable state, I will
10 appeal to the court not to terminate the treatment.

11 Again, treatment depends on the condition
12 you are treating and the patient's history. So I may
13 appeal to the court that patient can -- patient does
14 not need to be under a court order, that the patient
15 can, on his own or their own volition, continue the
16 treatment.

17 Q. Okay. Do the court orders -- when a patient is under
18 a court order like you just described, does the court
19 order have any expiration date of time limit?

20 A. It depends. Some court orders do specify that a
21 patient needs to be in treatment for, say, five years,
22 four years, three years, depending on the severity of
23 the case. I don't determine that support decision to
24 do that.

25 Q. So if the court orders the patient to receive

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1 treatment for five years, you have no input into that
2 decision?

3 A. As I mentioned earlier, if the patient has been
4 complying with the treatment and patient is not
5 causing any danger to himself or others and patient is
6 abiding by all the court stipulations, then taking
7 into consideration the history of the patient, the
8 context in which the patient has been ordered to
9 undergo treatment, considering all these factors, I
10 may appeal to the court, again, depending on the
11 diagnosis, depending on the clinical situation,
12 whether to terminate the treatment or that the patient
13 can continue treatment on his own volition.

14 Q. In your opinion when does a patient need to be
15 involuntarily hospitalized?

16 A. If the patient is in imminent danger of hurting
17 himself or others and the patient is not taking care
18 of himself or herself to the detriment of their
19 physical well-being, those are the essential criteria
20 that we use in civil commitment.

21 Q. Do you have any involvement in the civil commitment
22 process?

23 A. In terms of my work, I do admit patients involuntarily
24 to hospitals, but it depends on the hospital whether
25 proceed with the further court commitment or not.

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1 Q. So you say you admit them to the hospital, and then
2 the hospital makes the decision whether to proceed
3 with continued commitment or not?

4 **A. That's correct.**

5 Q. Okay. I'm going to show you a document.

6 MARKED BY THE REPORTER:

7 DEPOSITION EXHIBIT A

8 10:41 a.m.

9 BY MR. CROSS:

10 Q. Do you recognize this document, sir?

11 **A. It's a blank document as far as I can see.**

12 Q. Okay. I know it's blank, but is this a form or a
13 document that you've seen before?

14 **A. Yes.**

15 Q. What is it?

16 **A. It's a Clinical Certificate.**

17 Q. What's the purpose of a Clinical Certificate?

18 **A. To enumerate or specify who the patient is, who the**
19 **examiner is, and where the examination took place, the**
20 **time, the time spent, and the reasons for commitment**
21 **based on the diagnosis, but, more importantly, based**
22 **on the current clinical presentation.**

23 Q. Is this a form that is submitted to the court?

24 **A. Yes.**

25 Q. Have you ever completed one of these forms in your

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1 time at Hegira?

2 **A. Yes.**

3 Q. About how many times have you completed this form in
4 your time at Hegira?

5 **A. That I cannot tell you. I cannot recall.**

6 Q. Do you know if it would be, you know, ten or a hundred
7 or a thousand?

8 **A. I just --**

9 Q. Can you give me a ballpark?

10 **A. I cannot give you a ballpark. I have been in practice**
11 **since '82.**

12 Q. So would it be fair to say -- well, do you have an
13 idea of about how many you complete in a year?

14 **A. I do not have an idea.**

15 Q. Okay. Is it possible it's, since '82, more than ten?

16 MR. CARDELLI: I'm going to object to the
17 form of the question. It calls for a speculative
18 response from the witness. The witness should not
19 speculate. Anything is possible. We'll stipulate to
20 that.

21 BY MR. CROSS:

22 Q. You can answer.

23 **A. I do not know.**

24 Q. Okay. I'm going to direct your attention down to No.
25 9 on this form.

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1 MR. CARDELLI: Are you able to explode that
2 a little bit, Ian?

3 MR. CROSS: Sure.

4 MR. CARDELLI: I'm probably the only one
5 that has poor eyesight, but --

6 BY MR. CROSS:

7 Q. Can you see that Dr. Kumaran?

8 MR. CARDELLI: That's much better. Thank
9 you.

10 THE WITNESS: I conclude that this is or is
11 not a person requiring treatment.

12 BY MR. CROSS:

13 Q. So when you complete this form, do you check one of
14 those boxes in No. 9?

15 A. Yes.

16 Q. How do you decide which box to check?

17 A. Well, it depends on your assessment of a patient,
18 whether that patient needs treatment or not.

19 Q. Okay. So if you were to say that -- or conclude in
20 No. 9 that the individual is a person requiring
21 treatment, would you need to check one of these four
22 boxes in No. 8?

23 A. Yes. I need to specify why I am asking that a patient
24 needs to be hospitalized.

25 Q. So, for example, if you checked B, likelihood of

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1 injury to others, you would also need to specify some
2 facts as to why you believed the individual posed a
3 likelihood of injury to others?

4 **A. Yes.**

5 Q. Okay. Now, No. 10, do you check a box in No. 10 when
6 you complete this form?

7 **A. I do.**

8 Q. How do you decide which box to check in No. 10?

9 **A. It depends on the intensity of what we are dealing**
10 **with.**

11 Q. So when would you recommend hospitalization only?

12 **A. Well, if the patient is in imminent danger of hurting**
13 **himself or others, if the patient is not taking care**
14 **of himself or herself or based on the other treatment**
15 **regimen, again, if there's a court order that**
16 **patients -- patient need to be hospitalized if they**
17 **deviate from the treatment regimen stipulated by the**
18 **court.**

19 **My -- it is not just -- most of the time it**
20 **is suffice to say that whether the patient is in**
21 **danger of hurting himself or others or not taking care**
22 **of himself or herself, that's what I do in my every**
23 **day practice. That is how I determine what course of**
24 **treatment I need to pursue.**

25 Q. All right. So under what circumstances would you

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1 recommend assisted outpatient treatment without
2 hospitalization?

3 **A. I -- I haven't done that. I haven't approached the**
4 **court with the combination treatment or the assisted**
5 **outpatient treatment without hospitalization.**

6 Q. You've never done that?

7 **A. I have never done that.**

8 MARKED BY THE REPORTER:

9 DEPOSITION EXHIBIT B

10 10:48 a.m.

11 BY MR. CROSS:

12 Q. Okay. I'm going to show you another document. Do you
13 recognize this document, sir?

14 **A. Yes.**

15 Q. What is it?

16 **A. It's a six-month review treatment. As far as I know**
17 **we use this document for NGRI patients as far as my**
18 **practice goes.**

19 Q. Okay. What's the purpose of this form?

20 **A. It's a review about progress of treatment.**

21 Q. Have you ever completed one of these in your time at
22 Hegira?

23 **A. I have completed and -- yes.**

24 Q. Do you know how many times you've completed it?

25 **A. Let me check my phone here.**

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1 Q. I'm sorry. Are you looking at some documents, sir?

2 A. Yes.

3 Q. What are you looking at?

4 A. I have this protocol that we follow -- the protocol
5 that we follow for NGRI patients.

6 Q. Oh, interesting. There is a protocol that you follow
7 for NGRI patients?

8 A. It's not I who follow it. It is what is stipulated by
9 the court.

10 Q. All right.

11 A. And I need to follow certain things based on what the
12 court tells me.

13 Q. Do you file this form with the court?

14 A. I have filed this form, but I don't have that form.
15 If you can show me the whole form, I can have a better
16 understanding.

17 Q. Sure.

18 MR. CARDELLI: By the way, Ian, at some
19 stage could you identify these as exhibits just so we
20 know what we're talking about here.

21 MR. CROSS: I'm sorry. We'll call this
22 Exhibit B and the previous form Exhibit A.

23 MR. CARDELLI: That would be great. Yeah.
24 Just so when we're reading the transcript we know
25 what --

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1 MR. CROSS: Okay.

2 THE WITNESS: Can you please show me the
3 last page?

4 BY MR. CROSS:

5 Q. Sure. So when you are completing this form at Hegira,
6 sir, do you check a box in No. 9?

7 A. Yes.

8 Q. How do you decide what to choose for No. 9?

9 A. It depends. Again, I -- I have to specify something,
10 that I have not used in -- this form in civil
11 commitments or civil proceedings. It is pertinent to
12 my practice only for NGRI clients.

13 Q. Okay.

14 A. How I determine what box to click depends on patient's
15 clinical status, patient's compliance with the
16 treatment, and in terms of compliance and terms of not
17 only taking medication but what the court stipulated
18 that the patient needs to follow.

19 Q. Okay. Do you indicate the estimated -- see in No. 8
20 where it says the estimated time required for further
21 treatment is blank, check box days, check box months,
22 do you indicate an estimated time required for further
23 treatment in No. 8 when you complete these?

24 A. I suppose I do. I --

25 Q. How do you decide how much additional time is required

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1 for treatment?

2 A. Well, it depends on the -- again, there are many
3 factors to go through here. As I mentioned many
4 times, it depends on the compliance in all forms,
5 whether the patient is doing a follow-up, whether
6 patient is taking drugs, whether, you know, patient is
7 deviating from the -- you know, with the orders
8 stipulated by the court. It all depends on those
9 things. Sometimes 60-days extension. Sometimes 90
10 days.

11 Q. Okay.

12 A. But it's hard to say what exactly -- the number that I
13 am putting. It's -- it's variable. Depends on
14 different factors.

15 Q. So I noticed you said the term NGRI. Can you explain
16 what that is?

17 A. It's the -- is not guilty by reason of insanity. It
18 is a person who commits a crime, and at the time of
19 commitment of the crime, patient is in a mental state
20 where he or she is not able to distinguish between
21 right and wrong based on an altered mental status. It
22 can be medical. It can be psychiatric, so on and so
23 forth.

24 Q. If I say the term ALS contract, do you know what that
25 is?

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1 A. My understanding is alternate leave status. That's my
2 understanding.

3 Q. What is an ALS contract?

4 A. ALS contract is a contract ordered by a court stating
5 that the patient needs to comply with certain
6 narratives during the course of that contract.

7 Q. Have you ever had patients that you treated at Hegira
8 that were NGRI patients on ALS contracts?

9 A. Yes.

10 Q. Those two forms we looked at before, Exhibits A and B,
11 has anyone ever provided you any training about how to
12 complete those forms for NGRI patients on ALS
13 contracts?

14 A. I have not had any formal training. The forms you
15 showed me, the clinical cert, which we have been doing
16 for years, it is part of the residency program that --
17 you know, that the doctors or psychiatrists or
18 licensed psychologists should be familiar with.

19 And the second form is -- again, I did not
20 have any formal training, but what I have come across
21 is that that form is filled based on the input from
22 the various members of the, what we call, NGRI team.
23 The team is responsible for providing and managing a
24 client -- providing treatment and managing the client.

25 Q. Do you complete either of those forms differently when

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1 a patient is an NGRI patient on an ALS contract versus
2 for a patient who is not an NGRI client?

3 **A. No.**

4 **Q.** Has anyone ever told you what recommendations to make
5 to the court on either of those forms we just talked
6 about for NGRI patients?

7 **A.** As I told you that, I do get input -- input from the
8 doctor who is treating the patient, the case manager,
9 the -- the psychologist or the social worker who is
10 doing counseling and so on and so forth.

11 **Q.** So you get input, but is the decision theirs or is it
12 yours?

13 **A.** It's my decision.

14 **Q.** Okay. And it's based on your clinical judgment?

15 **A.** Yes.

16 **Q.** Do you know what the NGRI Committee is?

17 **A.** I do not know much about the NGRI Committee, but I was
18 told that any decision in recommendation that we make
19 or I make, say patient can go on leave to be with his
20 or her family for the weekend or the patient can go
21 and stay in a semi-independent situation, I have to
22 make that proposal, and the NGRI Committee has to
23 agree upon that. So my understanding is that they are
24 a decision-making committee based on, you know, their
25 discussions, and I don't know -- I have no idea what

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1 **their workings are, what they think or what they do.**

2 Q. So if you and the NGRI Committee disagree about
3 something for a particular patient, whose decision
4 takes precedence?

5 A. **My understanding is that it is the NGRI committee's**
6 **decision.**

7 Q. Do you ever talk to the NGRI Committee?

8 A. **No.**

9 Q. Does the NGRI Committee exercise any control over the
10 findings and recommendations in your clinical
11 certificates or six-month reviews for NGRI patients?

12 A. **I have never received any input from them personally.**
13 **I don't know whether any other treatment -- treatment**
14 **team members have received any such contributions from**
15 **them.**

16 Q. Okay. Does anyone exercise control over the findings
17 and recommendations in your clinical certificates or
18 six-month reviews for NGRI patients?

19 A. **I do not know the understanding of whom -- who has the**
20 **authority to overrule me or make a decision based on**
21 **my recommendation. Is that --**

22 Q. So I'm not asking about making decisions based on your
23 recommendation. I'm asking about deciding what your
24 recommendation is. Does anyone else decide for you
25 what your recommendation is for a particular patient?

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1 **A.** Nobody is making a decision for me, but I do get input
2 from my treatment team.

3 **Q.** Okay. When you're making these decisions about what
4 to recommend to the court for an individual patient,
5 do you interview the patient?

6 **A.** **Yes.**

7 **Q.** What else do you base your decision on besides the
8 interview?

9 **A.** We -- during the team meeting, the various disciplines
10 are the social workers, the case managers. They
11 present a variety of the course of patient's
12 treatment, what the patient has been doing, whether
13 the patient is working, things like that, and also I
14 discuss with the treating psychiatrist, also I review
15 the documents before I attend the meeting, so I try to
16 be informed about what's going on with their client.

17 **Q.** So fair to say that you get information from the
18 treatment team?

19 **A.** **That's correct.**

20 **Q.** But the ultimate decision is yours?

21 **A.** **Yes.**

22 **Q.** Okay. Are patients who are NGRI sometimes sent back
23 to the hospital during their ALS contract?

24 **A.** **Yes.**

25 **Q.** What is your involvement, if any, in that process?

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1 A. Nothing much. I -- I've -- have not been involved in
2 making a decision to -- whether to hospitalize the
3 patient or not. I may add that once the patient
4 violates contract stipulations, patient is taken to
5 the psychiatric hospital, and they make the
6 determination as to admit the patient or not.

7 Q. Who determines whether the patient has violated the
8 contract stipulations?

9 A. The case manager, the social worker, the doctor who is
10 treating the patient.

11 Q. Are those the people who make the decision whether to
12 send the patient back to the hospital?

13 A. I don't know whether they have any particular input or
14 a particular hand in doing that. My understanding of
15 the law is that if the patient deviate from the
16 directives of the court, he or she usually goes back
17 to the hospital. Now, the intensity of the violation
18 may vary, but usually my -- my position in my dealing
19 with the patient, I hear the news after the fact.

20 Q. Okay. And you believe that the ALS contract is a
21 directive from the court?

22 A. I do believe, yes.

23 Q. Okay. Do you know what a respite is?

24 A. It is a system we use. We don't call it respite
25 anymore, only in certain, you know, circles. We --

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1 the -- we -- the same thing we call crisis residential
2 program, where you have patient in -- not in acute
3 crisis, you know, where their life is in danger or the
4 patient is all emaciated because of dehydration, but
5 in some situations we do send patients to a program
6 where they are cared for, a treatment program, to
7 manage that subacute breakthrough of symptoms.

8 Q. And then when they come out of that program, are they
9 back on the same ALS contracts they were on before?

10 A. I'm not talking about the ALS status. I'm talking
11 about the usual -- you asked about respite.

12 Q. Yes.

13 A. It doesn't -- it's -- I don't know whether it's
14 particularly a place in -- in NGRI clients. I don't
15 know. No idea. I'm talking in general about respite.

16 Q. Okay. Okay. So I want to go back to Exhibit A. Here
17 at No. 9, have you ever submitted a Clinical
18 Certificate for an NGRI patient where you've checked
19 the is not box?

20 A. No.

21 Q. And you already testified that in No. 10 you have
22 never checked a combination of hospitalization and
23 assisted outpatient treatment; is that correct?

24 A. That is correct.

25 Q. And you have never checked the assisted outpatient

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1 treatment without hospitalization; is that correct?

2 **A. That's correct.**

3 MS. BENNETT: Objection. Asked and
4 answered.

5 BY MR. CROSS:

6 Q. Okay. Now we're going to go to Exhibit B. For No. 9
7 on Exhibit B, have you ever checked the box should be
8 discharge from the treatment program?

9 **A. For the ALS clients I -- I don't recall doing that.**

10 Q. Okay. I'm going to show you another document. We'll
11 call this Exhibit C.

12 MARKED BY THE REPORTER:

13 DEPOSITION EXHIBIT C

14 11:07 a.m.

15 BY MR. CROSS:

16 Q. Is that your signature there, sir?

17 **A. That's correct.**

18 Q. And you indicated in No. 9 that the individual
19 continues to be a person requiring treatment?

20 **A. Yes.**

21 Q. And you indicated in No. 8 that the estimated time
22 required for further treatment is six months?

23 **A. That's correct.**

24 MR. CARDELLI: Ian, is there more than one
25 page to this document?

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1 MR. CROSS: There is.

2 MR. CARDELLI: Okay.

3 MR. CROSS: I'm going to go up and talk
4 about the other page.

5 MR. CARDELLI: Do you know how many pages?
6 Is it just a two-page document?

7 MR. CROSS: It's a two-page document.

8 MS. BENNETT: Ian, I've got to object.
9 This -- I think right now you're making a
10 non-plaintiff patient's identity an exhibit in this
11 deposition. This should be redacted. I want to
12 object to making this part of the record. It's, to
13 me, a serious HIPAA concern and mental health code
14 concern.

15 MR. CROSS: Well, I'll say for the record
16 this is a public document filed in the Wayne County
17 Probate Court and available on the internet. And I'm
18 not going to say the patient's name, and I ask the
19 witness not say the patient's name either. I just
20 want to ask the witness about how he filled it out.

21 MS. BENNETT: Okay. But it's still now a
22 record in the deposition. I think that it's going to
23 need to be sealed, but I guess we can -- I just want
24 to state that for the record and make a record of my
25 concern. Thank you.

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1 BY MR. CROSS:

2 Q. So for No. 4 you indicated that you believe that the
3 individual has a mental illness, and as a result of
4 the mental illness the individual can reasonably be
5 expected within the near future to intentionally or
6 unintentionally, seriously, physically injure himself
7 or others and has engaged in an act or acts or made
8 significant threats that are substantially supportive
9 of this expectation; correct?

10 **A. That's correct.**

11 Q. And here in No. 6 your conclusion was based on what
12 exactly?

13 **A. It's based on the patient's history, the seriousness**
14 **and intensity of the crime or behavior that person**
15 **exhibited and that led to being an NGRI client, and**
16 **the need to see that the patient continues to be**
17 **compliant with the treatment and be stabilized. These**
18 **are the factors --**

19 Q. So --

20 **A. -- that I took -- take into --**

21 Q. Why didn't you write --

22 (Reporter interrupted the record at
23 11:10 a.m.)

24 BY MR. CROSS:

25 Q. Why didn't you write any of those facts in No. 6?

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1 A. Well, it is -- it is part of the discussion. I do
2 that in the Clinical Certificate in my own
3 handwriting.

4 Q. Okay.

5 A. I may add -- before you ask the question -- in
6 psychiatry the course determines the outcome. You
7 need to be sure that the patient remains compliant and
8 stable over a length of time to predict or try to
9 predict what the outcome of that patient is going to
10 be; in other words, what that prognosis is going to
11 be. Thank you.

12 MARKED BY THE REPORTER:

13 DEPOSITION EXHIBIT D

14 11:11 a.m.

15 BY MR. CROSS:

16 Q. Okay. I'm going to show you another document. Is
17 that your signature down there again?

18 A. Yes.

19 Q. And you indicated that the individual --

20 MS. BENNETT: Ian, can we please see the --
21 like, the first page of the document --

22 MR. CROSS: Sure.

23 MS. BENNETT: -- before you go to the
24 bottom so we know what we're looking at before you ask
25 questions? Thank you.

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1 MR. CARDELLI: Is this going to be -- is
2 this D?

3 MR. CROSS: This is Exhibit D.

4 MR. CARDELLI: Thank you.

5 MS. BENNETT: And I'm going to have the
6 same objection or, I guess, just note on this exhibit
7 regarding patient confidentiality. Thank you.

8 BY MR. CROSS:

9 Q. Okay. See above --

10 MR. CARDELLI: Wouldn't we be able to just
11 stipulate that we can black out those --

12 MR. CROSS: I have no problem blacking out
13 the name, and I think we can stipulate to that.

14 MR. CARDELLI: We would stipulate to that.

15 MS. BENNETT: Yeah. I would stipulate to
16 that also.

17 BY MR. CROSS:

18 Q. Okay. See right here above your signature you wrote
19 to maintain NGRI status?

20 **A. Yes.**

21 Q. That's correct?

22 **A. That's correct.**

23 Q. Why did you write that?

24 **A. Again, we need to have a frame of time to observe and**
25 **follow up with patient to ensure that the patient**

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1 be -- will be compliant and will continue the
2 stability. Again, we need to do ongoing follow-up to
3 make sure that the status of the patient continues in
4 a reasonable, stable manner.

5 Q. All right. Let me -- so this to maintain NGRI status,
6 is that your handwriting, sir?

7 A. No.

8 Q. Do you know whose handwriting that is?

9 A. It looks like it's the handwriting of one of the --
10 the gentleman who -- who is in charge of the -- he's
11 an assistant clinical director of the program.

12 Q. Is his name Bill Hartley?

13 A. That's correct.

14 Q. Okay. See where it says here recommended that patient
15 receive grief counseling?

16 A. Yes.

17 Q. Is that also Bill Hartley's handwriting?

18 A. That is correct.

19 Q. And see up here my conclusion is based on the
20 following facts of which I have personal knowledge, is
21 this Bill Hartley's handwriting?

22 A. That's correct.

23 Q. Is everything on this form Bill Hartley's handwriting?

24 A. That's correct.

25 Q. Except for your signature; right?

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1 **A. That's correct.**

2 Q. Now, the date here next to your signature, is that
3 your handwriting?

4 **A. I cannot tell you that.**

5 Q. All right. Let's zoom in on the date here, and I
6 think it says error and there's some initials. Are
7 those your initials?

8 **A. No.**

9 Q. Do you know whose initials those might be?

10 **A. Mr. Bill Hartley.**

11 Q. Okay. So would it be fair to say that the only thing
12 you wrote on this form is your signature and
13 everything else on the form was written by Bill
14 Hartley?

15 **A. That's not a fair statement. If you can -- if you**
16 **consider the intent and purpose.**

17 Q. Okay. Explain to me.

18 **A. Because this -- this -- documents are written in front**
19 **of me.**

20 Q. This document was wrote in front of you?

21 **A. Yeah. He used a pen and he wrote based on our**
22 **discussion, and I approved that. It's not kind of a**
23 **blind document he gives me to sign and he goes out**
24 **and --**

25 Q. All right.

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1 **A.** You have to consider the intent, what is intent of
2 this document.

3 Q. So I want to understand. Your testimony is that you
4 were with Bill Hartley. He filled all this stuff out
5 for you?

6 **A.** **That's correct.**

7 Q. That's correct?

8 **A.** **That's correct?**

9 Q. Okay. And then you signed it?

10 **A.** **Yes.**

11 Q. After he filled it out?

12 **A.** **Yes.**

13 Q. On this date?

14 **A.** **I -- yes. I think it's the 8th of February.**

15 Q. Okay. I'm going to show you --

16 MR. CROSS: So I'm sorry. Did I freeze for
17 a second?

18 MR. CARDELLI: Yeah. We thought you were
19 just joking with us.

20 (Mr. Cross exited Zoom room at 11:17 a.m.)

21 (Recess taken at 11:17 a.m.)

22 (Back on the record at 11:26 a.m.)

23 (Requested portion of the record read at
24 11:27 a.m.)

25 "Q. After he filled it out?

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1 **A. Yes.**

2 Q. On this date?

3 **A. I -- yes. I think it's the 8th of**
4 **February.**

5 Q. Okay. I'm going to show you -- "

6 BY MR. CROSS:

7 Q. So, Dr. Kumaran, I apologize for the pause there.

8 You testified that -- did you testify that
9 you were with Bill Hartley when he filled out that
10 form?

11 **A. Uh-huh.**

12 Q. Why did he need to write it instead of you?

13 **A. Well, I -- I do not understand the question. Some --**
14 **sometimes we type. Sometimes we write.**

15 Q. Okay.

16 **A. Sometimes, you know, somebody else writes for you.**
17 **Sometimes we have a scribe. It all depends on the**
18 **circumstances.**

19 Q. But you saying those are your recommendations and you
20 told him to write that?

21 **A. Yes.**

22 Q. Okay. I'm going to show you -- so this is the
23 document we were just talking about, and I'm going to
24 show you what's been marked Plaintiffs' Exhibit E.

25 MARKED BY THE REPORTER:

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1 DEPOSITION EXHIBIT E

2 11:28 a.m.

3 BY MR. CROSS:

4 Q. This is also a two-page form. Is that your signature,
5 sir?

6 **A. That's right.**

7 Q. And is that your handwriting to maintain NGRI status?

8 **A. No.**

9 Q. Is that your handwriting on the date?

10 **A. Yes.**

11 Q. That is?

12 **A. Yeah.**

13 Q. Okay.

14 **A. VK, these are my initials.**

15 Q. Those are your -- VK is your initials?

16 **A. That's correct.**

17 Q. What about that bubble thing right there?

18 **A. It's PG.**

19 Q. That's PG?

20 **A. Yeah. Somebody apparently signed for me and then I**
21 **signed my initials here.**

22 Q. Okay. So someone initialled it and then you
23 initialled it?

24 **A. Yes.**

25 Q. Okay. So if we go to the top of this form -- we don't

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1 need to say the patient's name on the record, but you
2 see the name of the patient here?

3 **A. Uh-huh. Yes.**

4 Q. And the one we just talked about, do you see the name
5 of the patient here?

6 **A. That's correct.**

7 Q. And these are the same patient; correct?

8 **A. These are the same patient. Same name.**

9 Q. All right. And this form actually has three pages.
10 The last page is a proof of service. Is this Bill
11 Hartley's handwriting on the proof of service?

12 **A. It looks like Bill Hartley's handwriting, and he has**
13 **signed it.**

14 Q. He has signed it. And what time does he say he served
15 this form personally on the patient?

16 **A. I do not know. I cannot answer that question.**

17 Q. Well, what does it say in No. 3 with the checkmark?

18 **A. According to court rule, I served my person service**
19 **the papers described above on --**

20 Q. You don't need to say the patient's name. This
21 address, do you recognize this address?

22 **A. That's the clinic address, outpatient clinic.**

23 Q. Okay. Do you work at that location?

24 **A. That's correct.**

25 Q. Do you work there every day of the week?

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1 **A. No.**

2 Q. Which days do you work there?

3 **A. Now I work there on Thursdays. I used to work there**
4 **on Saturdays too.**

5 Q. All right. You worked there on Thursdays and
6 Saturdays. Did you work there any other days of the
7 week?

8 **A. Sometimes I go there to attend meetings and take care**
9 **of paperwork or other necessary things.**

10 Q. All right. And what's the date and time here over in
11 this column? Can you read that for the record?

12 **A. I don't know whether it's the 6th or the 8th. I**
13 **cannot make that out.**

14 Q. Okay. Can you see it better now?

15 **A. I don't think I can see it now.**

16 Q. Well --

17 **A. I cannot see it now.**

18 Q. It's either the 6th or the 8th of 2016 at 3:30 p.m.?

19 **A. It might be. I'm not really sure about that.**

20 Q. Okay. So I'm going to show you another document.

21 Call this Exhibit F.

22 MARKED BY THE REPORTER:

23 DEPOSITION EXHIBIT F

24 11:33 a.m.

25 BY MR. CROSS:

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1 Q. This is another proof of service, and would you agree
2 that the handwriting here is not the same as the
3 handwriting on the one we just looked at in Exhibit D?

4 **A. It's different, yes.**

5 Q. Okay. Do you know a person by the name of Roxanne
6 Green?

7 **A. I don't recall that name now. No, I cannot recall**
8 **that name.**

9 Q. Okay. And what is the date and time of service on
10 this proof of service?

11 **A. 2-8-16, 3:30 p.m.**

12 Q. And is the patient the same as the last proof of
13 service we looked at?

14 **A. Yes.**

15 Q. And is the location the same as the last proof of
16 service we looked at?

17 **A. Yes.**

18 Q. And what is being served here, Line 1?

19 **A. It's a six-month review report.**

20 Q. Okay. And here Bill Hartley was also serving a
21 six-month review report; correct?

22 **A. Correct.**

23 Q. Now, this six-month review report, that's for the same
24 patient. See where it says to maintain NGRI status?

25 **A. Yes.**

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1 Q. Does that look like the same handwriting that's on
2 this proof of service?

3 A. I cannot make that determination.

4 Q. All right. But this person's name is Roxanne Green;
5 right --

6 A. It looks like that.

7 Q. -- who filed this proof of service?

8 Now, if we zoom in here on the date, are
9 you sure that's not an RG?

10 A. As far as I can see, Counselor, it is PG. It may be
11 RG. I do not know. I cannot make an opinion on that.

12 Q. Is that how you write your initials?

13 A. No.

14 Q. And do you believe the 2-16-16 is your handwriting?

15 A. It may be my handwriting. I just cannot -- I cannot
16 hundred percent tell you that. This is my initials.
17 That much I can tell you. That's my initial, VK.

18 Q. VK is your initial?

19 A. That's correct.

20 Q. And PG, you don't know if that's PG or RG, but you
21 know that you didn't write that?

22 A. I have -- I cannot -- I did not write that. That's
23 not the way I write; okay?

24 Q. Okay. So are these 2 six-month review reports for the
25 same patient at the same time --

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1 **A. I don't recall this.**

2 Q. -- Exhibit D and Exhibit E?

3 **A. I do not recall that, the same date or a different**
4 **date.**

5 Q. Well, let's look at the date that they were filed in
6 probate court. This one was filed February 16th,
7 2016. You would agree with that; right?

8 **A. That is correct.**

9 Q. And the other one was filed February 10th, 2016?

10 **A. That's correct.**

11 Q. And the case number is 796760?

12 **A. Okay.**

13 Q. The case number on this one, is that the same case
14 number?

15 **A. Looks like that.**

16 Q. So do you do six-month review reports every week, or
17 do you do them every six months?

18 **A. Every six months.**

19 Q. So why are there 2 six-month review reports filed in
20 the same case for the same patient both bearing your
21 signature filled out by different people filed a week
22 apart?

23 **A. I do not know. I cannot answer that question. I pay**
24 **attention to the substance contained in the document.**

25 Q. And, I mean, if we look at the proofs of service, they

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1 were supposedly served on the patient at the same
2 time. Do you remember that?

3 **A. I -- I don't know what the question means. The**
4 **service -- my signature shows the time when I was**
5 **involved in the case, discussion with the patient.**

6 Q. Okay. So your signature, for example, on this one,
7 it's typed. Do you know if you typed it or someone
8 else typed it?

9 **A. Someone else typed it.**

10 Q. Someone else typed it. Did you tell that person what
11 to type?

12 **A. No.**

13 Q. So you didn't tell that person to type that the
14 estimated time required for treatment is six months?

15 **A. I said that, of course. That's the six-month meeting**
16 **that we are having.**

17 Q. And you signed this on 2-16-16?

18 **A. That's correct.**

19 Q. Well, how could you have signed it on 2-16-16 if it
20 was filed on 2-10-16?

21 **A. I have no idea.**

22 Q. Is it possible that you signed a bunch of these blank
23 forms and put them somewhere in the office in Hegira
24 for other Hegira employees to fill out and file with
25 the probate court?

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1 **A. Not at all.**

2 Q. There's no way that could have happened?

3 **A. No.**

4 Q. So how did this happen where two different people
5 filed forms two weeks apart?

6 **A. I have no idea.**

7 MR. CARDELLI: Yeah. I'm going to object,
8 Ian. It's been asked and answered. It becomes
9 argumentative once you ask it the third time.

10 MARKED BY THE REPORTER:

11 DEPOSITION EXHIBIT G

12 11:40 a.m.

13 BY MR. CROSS:

14 Q. All right. Let's look at another one. Is that your
15 signature?

16 **A. That's correct.**

17 Q. Did you write that date?

18 **A. No.**

19 Q. Did you write I interviewed patient face to face and
20 home staff?

21 **A. I did not write that. That's not my handwriting, but**
22 **I do interview home staff when they come for the**
23 **meeting.**

24 Q. So I'm sorry. This one is -- we need to turn it
25 around to see the top page.

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1 But is there anything on this form that's
2 in your handwriting?

3 **A. No. That's not my handwriting.**

4 MARKED BY THE REPORTER:

5 DEPOSITION EXHIBIT H

6 11:41 a.m.

7 BY MR. CROSS:

8 Q. Would you agree the handwriting on this form, Exhibit
9 G, matches the handwriting on this proof of service
10 which we'll call Exhibit H?

11 **A. Yeah. Some of -- some -- yeah. One -- one sentence**
12 **there and the -- the bottom -- the name of the client**
13 **and the address.**

14 Q. Do you know a person by the name of Marie Dalton?

15 **A. I don't recall that person at this point. I don't**
16 **know. It was -- it appears she's a BSW, a social**
17 **worker.**

18 Q. All right. Let's look at another one. I'll call this
19 Exhibit I.

20 MARKED BY THE REPORTER:

21 DEPOSITION EXHIBIT I

22 11:42 a.m.

23 BY MR. CROSS:

24 Q. Any of the handwriting on this form your handwriting?

25 **A. No.**

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- 1 Q. Is that date your handwriting?
- 2 **A. I just cannot determine that.**
- 3 Q. You can't determine that?
- 4 **A. I can't say yes or no.**
- 5 Q. Well, were you able to determine it for this one,
- 6 Exhibit G?
- 7 **A. It doesn't look like my handwriting.**
- 8 Q. This date on Exhibit G doesn't look like your
- 9 handwriting?
- 10 **A. That is correct.**
- 11 Q. Do you normally write the date next to your signature
- 12 when you sign a form that has a space for the date?
- 13 **A. I usually do that, but unless, you know, somebody else**
- 14 **filled it during the meeting.**
- 15 Q. So how do these get filled out?
- 16 **A. What do you mean? Explain. Can you elaborate on**
- 17 **that?**
- 18 Q. Sure. You said if somebody else filled it during the
- 19 meeting. So there's a meeting and it's filled out
- 20 during the meeting; is that your testimony?
- 21 **A. That's correct.**
- 22 Q. And somebody fills out every part of the form
- 23 including the date except for your signature?
- 24 **A. No. I personally fill the clinical cert. Nobody else**
- 25 **can fill that, but these documents are the -- the**

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1 contents are based on the discussion with the patient,
2 the treatment team, the whole staff, all family
3 members.

4 Q. So you don't necessarily -- you say you personally
5 fill the clinical certs, but you don't necessarily
6 personally fill the six-month reviews?

7 A. **That's correct.**

8 Q. So maybe somebody else is doing the six-month review?

9 A. **No.**

10 Q. So when someone fills out the six-month review, do
11 they do it in your presence?

12 A. **Yes.**

13 Q. Every time?

14 A. **As far as I can recall.**

15 Q. So then --

16 MR. CROSS: Well, all right. I don't have
17 any further questions. Thank you for your time,
18 Doctor.

19 MR. CARDELLI: Katherine, do you have any
20 questions? I do not.

21 MS. BENNETT: I do have some questions.

22 EXAMINATION

23 BY MS. BENNETT:

24 Q. Hi, Doctor. My name is Katherine Bennett. I'm with
25 the Department of Attorney General. I represent the

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1 state defendants in this case, and I just have a few
2 questions for you today. I just want to clarify. You
3 were asked some questions and I just want to get some
4 clarification on a few things.

5 Is it fair to say that the NGRI Committee
6 has never required you to fill out a Clinical
7 Certificate a certain way?

8 **A. They never told me what to do.**

9 Q. And say -- go ahead. You can finish your answer.

10 **A. No. I do it based on my observation.**

11 Q. And so is that the same for the six-month review
12 report form, the NGRI Committee has never told you how
13 to fill out that form? You do it based on your own
14 observations and clinical judgment?

15 **A. That's correct.**

16 Q. And you said that some things you would run by the
17 NGRI Committee, such as whether an NGRI patient can
18 take leave with family; is that right?

19 **A. I don't personally do that. We make a determination**
20 **and one of the team members contact NGRI Committee**
21 **about what we discussed.**

22 Q. Okay. But that has nothing to do with your judgment
23 in filling out a clinical cert or a six-month review
24 report; right?

25 **A. No.**

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1 Q. Do you oftentimes have your support staff fill out
2 forms for you for your review and approval?

3 **A. Not all the time, but sometimes in -- in -- especially**
4 **during team meetings. Not on an individual basis.**
5 **When other people are present.**

6 Q. Okay. You never signed your name to a clinical cert
7 or a six-month review report if you disagreed with the
8 contents of it; right?

9 **A. That's correct.**

10 Q. Are you familiar with a patient by the name of Darryl
11 Pelichet?

12 **A. Yes.**

13 Q. And how are you familiar with Mr. Pelichet?

14 **A. Me being with the NGRI team, I review the cases and**
15 **attend necessary clinical meetings. I discuss issues**
16 **with the treating doctor. I review the documents and**
17 **make the documents necessary for the care of the**
18 **patient and as stipulated by the court.**

19 Q. So you've provided treatment to Mr. Pelichet?

20 **A. I did not provide treatment to Mr. Pelichet.**

21 Q. Did you complete a clinical cert form for
22 Mr. Pelichet?

23 **A. Yes.**

24 Q. And anything that was in that clinical cert form, was
25 that your own decision to include that?

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1 **A. That's correct.**

2 Q. And that would go the same for any clinical cert form
3 you filled out for Mr. Pelichet?

4 **A. Absolutely.**

5 Q. And how about have you filled out six-month review
6 reports for Mr. Pelichet?

7 **A. I don't recall that.**

8 Q. But fair to say that your general practice would be,
9 true, if you had filled out a six-month report for
10 Mr. Pelichet that it would be based on your clinical
11 judgment?

12 **A. That's correct.**

13 Q. And that you wouldn't fill it out a certain way
14 because somebody mandated you to do it a different
15 way?

16 **A. No. No.**

17 Q. Aside from filling out a clinical cert for
18 Mr. Pelichet, did you have any other role in his
19 treatment whatsoever?

20 **A. Yes. I -- when I talked to Mr. Pelichet during these**
21 **meetings, I go through the -- I went through the --**
22 **you know, his treatment, the medication, side effects,**
23 **what has been happening. You know, overall the**
24 **psychosocial issues, medication issues, medical**
25 **issues, you know, things like that. And if I need to**

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1 talk to the -- convey anything specifically to the
2 treating doctor, I would do that, and it's an overall
3 assessment of his status.

4 Q. Okay. How about a patient by the name of Bonn
5 Washington, do you know a patient by that name?

6 A. No.

7 Q. How about Darius Bickerstaff, do you know a patient by
8 that name?

9 A. No.

10 Q. How about Joshua Ragland, do you know a patient by
11 that name?

12 A. No.

13 MS. BENNETT: Okay. I don't have any
14 further questions. Thank you.

15 MR. CARDELLI: No questions.

16 Ian, anymore?

17 MR. CROSS: I'm done.

18 (Discussion off the record at 11:51 a.m.)

19 (Back on the record at 11:52 a.m.)

20 MR. CARDELLI: Yeah. I just wanted to make
21 sure that the notice was to all the parties in the
22 case, and if you could just verify that at some stage,
23 Ian, that would be appreciated.

24 MR. CROSS: I don't know if we provided it
25 to all parties. I would have to check with my

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1 assistant.

2 MR. CARDELLI: Okay. All right. Very
3 good. Thank you, Doctor.

4 (The deposition was concluded at 11:52 a.m.
5 Signature of the witness was not requested by
6 counsel for the respective parties hereto.)

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1 CERTIFICATE OF NOTARY

2 STATE OF MICHIGAN)

3) SS

4 COUNTY OF JACKSON)

5

6 I, DORA L. BENSON, certify that this
7 deposition was taken before me on the date
8 hereinbefore set forth; that the foregoing questions
9 and answers were recorded by me stenographically and
10 reduced to computer transcription; that this is a
11 true, full and correct transcript of my stenographic
12 notes so taken; and that I am not related to, nor of
13 counsel to, either party nor interested in the event
14 of this cause.

15

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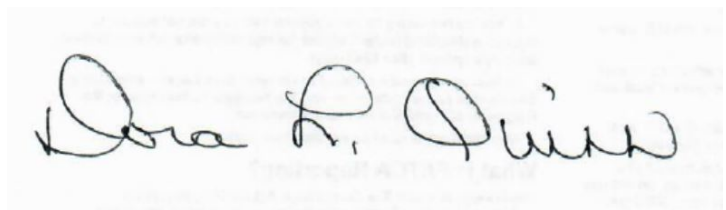
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21

A handwritten signature in black ink, appearing to read "Dora L. Quinn", is written over a horizontal line.

22

DORA L. QUINN, CSR-6110

23

Notary Public,

24

Jackson County, Michigan

25

My commission expires: 9-12-23

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